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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 RSUI INDEMNITY COMPANY, INC.,

10 Plaintiff,

11 v.

12 VISION ONE, LLC, *et al.*,

13 Defendants.

Case No. C08-1386RSL

ORDER DENYING DEFENDANTS'  
MOTION TO PRECLUDE  
COLLATERAL ATTACK ON  
SUPERIOR COURT'S  
REASONABLENESS  
DETERMINATION

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16 This matter comes before the Court on a motion filed by defendants Vision One,  
17 LLC ("Vision One") and Berg Equipment & Scaffolding Co., Inc. ("Berg") seeking a  
18 ruling that the Pierce County Superior Court's September 15, 2008 reasonableness  
19 determination is not subject to challenge in this action by plaintiff RSUI Indemnity  
20 Company, Inc. ("RSUI"). The reasonableness determination is now on appeal to the  
21 Washington State Court of Appeals.<sup>1</sup>

22 In the underlying litigation, RSUI claimed that it lacked proper notice and an  
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25 <sup>1</sup> Because the Court finds that the matter can be decided based on the parties'  
26 memoranda and supporting documents, defendants' request for oral argument is denied.

1 opportunity to meaningfully evaluate the settlement. Judge Kitty-Ann Van Doorninck  
2 found that RSUI had been “able to be involved as much as they wanted to.” Edmonds  
3 Decl., Ex. 1 at p. 6.

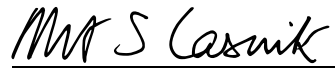
4 Defendants in this litigation now move to preclude RSUI from challenging the  
5 reasonableness determination before this Court. RSUI, however, has not done so, and it  
6 has stated that it does not plan to do so. RSUI’s opposition to the motion states that it  
7 “does not ask this Court to find [that] the state court judgment is unreasonable or  
8 unenforceable” and that its defenses to defendants’ counterclaims “do not require the  
9 Court to ‘go behind’ the state court’s reasonableness determination.” Opposition at p. 1.  
10 Furthermore, defendants do not need a Court order to state the obvious: the state court  
11 reasonableness determination is entitled to full faith and credit in this Court. Nor have  
12 defendants shown why this Court should grant their motion in the absence of its relevancy  
13 to any issue currently before the Court. Although defendants suggest that their motion is  
14 brought *in limine*, they have not identified any specific documents or testimony that they  
15 seek to preclude RSUI from introducing.<sup>2</sup> The Court will not give an advisory opinion on  
16 an issue that has not arisen and may not arise.

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22 <sup>2</sup> In their reply memorandum, defendants belatedly identify statements in the  
23 reports of RSUI’s experts that question the reasonableness determination. Reply at p. 2.  
24 Despite the experts’ statements, RSUI has stated that it does not plan to challenge the  
25 reasonableness determination. Regardless, the Court will not consider new arguments  
made for the first time in a reply because RSUI did not have the opportunity to address  
them.

1 Accordingly, defendants' motion (Dkt. #23) is DENIED.

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3 DATED this 18th day of December, 2009.

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5 Robert S. Lasnik  
6 United States District Judge  
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